

Department of Veterans Affairs

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the Department of Veterans Affairs determines that the eligible child's physical or mental condition permits training for that amount of time, or

(ii) The maximum time per week permitted by the child's disability, as determined by the Department of Veterans Affairs, based on medical findings, if the disability precludes the weekly training time stated in paragraph (c)(1)(i) of this section.

(2) If the hours per week that can reasonably be devoted to restorative training will not of themselves equal the time required by paragraph (c)(1) of this section, the course will be supplemented with subject matter which will contribute toward the objective of the program of education.

(Authority: 38 U.S.C. 3542(c))

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42726, Oct. 24, 1984]

§ 21.3304 Assistance during training.

(a) *General.* A vocational rehabilitation specialist will provide the professional and technical assistance needed by the eligible child in pursuing special restorative training. The assistance will be timely, sustained and personal.

(b) *Adjustments in the training situation.* The vocational rehabilitation specialist must be continually aware of the eligible child's progress. At frequent intervals he or she will determine whether the eligible child is progressing satisfactorily. When the vocational rehabilitation specialist determines that adjustments are needed in the course or in the training situation, he or she will act immediately to bring about the adjustments in accordance with the following:

(1) When the eligible child or his or her instructor indicates dissatisfaction with elements of the program, the vocational rehabilitation specialist, through personal discussion with the eligible child or his or her instructor or both, will, if possible, correct the difficulty through such means as making minor adjustments in the course or by persuading the eligible child to give more attention to performance.

(2) When major difficulties cannot be corrected, the vocational rehabilitation specialist will prepare a report of pertinent facts and recommendations

for action by the counseling psychologist in consultation with the Vocational Rehabilitation Panel.

(3) Action will be taken to terminate the eligible child's course at the proper time so that his or her entitlement may be conserved when the vocational rehabilitation specialist determines that:

(i) The eligible child is progressing much faster than anticipated, and

(ii) The eligible child's course may be terminated with satisfactory results before the time originally planned.

(Authority: 38 U.S.C. 3541)

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42726, Oct. 24, 1984]

§ 21.3305 "Interrupted" status.

(a) *Special restorative training should be uninterrupted.* An eligible child once entered into special restorative training should pursue his or her course to completion without interruption. Wherever possible, continuous training shall be provided for each eligible child, including training during the summer, except where, because of his or her physical condition or other good reason, it would not be to his or her best interest to pursue training. As long as the eligible child is progressing satisfactorily toward overcoming his or her handicap, the eligible child will be continued in his or her course of training without accounting for days of non-attendance within the authorized enrollment.

(Authority: 38 U.S.C. 3541)

(b) *Interrupting special restorative training.* Special restorative training will be interrupted as necessary under the following conditions:

(1) During summer vacations or periods when no instruction is given before and after summer sessions.

(2) During a prolonged period of illness or medical infeasibility.

(3) When the eligible child voluntarily abandons special restorative training.

(4) When the eligible child fails to make satisfactory progress in the special restorative training course.

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(5) When the eligible child is no longer acceptable to the institution because of failure to maintain satisfactory conduct or progress in accordance with the rules of the institution.

(6) When the eligible child's progress is materially retarded because of his or her negligence, lack of application or misconduct.

(Authority: 38 U.S.C. 3541, 3543(b))

[48 FR 37973, Aug. 22, 1983]

§ 21.3306 Reentrance after interruption.

When a course of special restorative training has been interrupted and the eligible child presents himself or herself for reentrance, the Department of Veterans Affairs will act as follows:

(a) *Action by a vocational rehabilitation specialist.* A vocational rehabilitation specialist will approve reentrance when special restorative training was interrupted:

- (1) For a scheduled vacation period, such as a summer break,
- (2) For a short period of illness, or
- (3) For other reasons which permit reentrance in the same course of special restorative training without corrective action.

(Authority: 38 U.S.C. 3543(b))

(b) *Referral to the counseling psychologist.* (1) The vocational rehabilitation specialist will refer the eligible child's case to the counseling psychologist when special restorative training was interrupted—

(i) By reason of failure to maintain satisfactory conduct or progress, or

(ii) For any other reason, which requires corrective action, such as changes of place of training, change of course, personal adjustment, etc.

(2) The counseling psychologist will consult with the Vocational Rehabilitation Panel. If he or she determines that the conditions which caused the interruption can be overcome, he or she will approve the necessary adjustment.

(3) The counseling psychologist will make a finding of infeasibility if—

- (i) All efforts to effect proper adjustment in the case have failed; and
- (ii) There is substantial evidence, resolving any reasonable doubt in favor

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of the child (as discussed in § 3.102 of this chapter), that additional efforts will be unsuccessful.

(Authority: 38 U.S.C. 3541, 3543(b))

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42726, Oct. 24, 1984]

§ 21.3307 “Discontinued” status.

(a) *Placement in “discontinued” status.* If reentrance from *interrupted* status into a program of special restorative training is not approved by a counseling psychologist under the provisions of § 21.3306, the vocational rehabilitation specialist will place the case in *discontinued* status.

(b) *Notification.* In any case of discontinuance the Department of Veterans Affairs will:

- (1) Notify the eligible child's parent or guardian of the action taken, and
- (2) Inform him or her of the eligible child's potential right to a program of education.

(c) *Effect of discontinuance.* An eligible child who has been placed in *discontinued* status is precluded from any further pursuit of special restorative training until a Department of Veterans Affairs counseling psychologist in the Vocational Rehabilitation and Employment Division determines that the cause of the discontinuance has been removed.

(Authority: 38 U.S.C. 3543(b))

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42726, Oct. 24, 1984]

PAYMENTS; SPECIAL RESTORATIVE TRAINING

§ 21.3330 Payments.

(a) Payments will be made to the person designated to receive the payments under the provisions of § 21.3133(b).

(b) VA will pay special training allowance only for the period of the eligible child's approved enrollment as certified by the vocational rehabilitation specialist. In no event, however, will VA pay such allowance for any period during which:

- (1) The eligible child is not pursuing the prescribed course of special restorative training that has been determined to be full-time training with respect to his or her capacities.